

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

TERRANCE ROBERT HENDERSON,)	
)	CASE NO. 7:19cv00258
Plaintiff,)	
v.)	<u>MEMORANDUM OPINION</u>
)	
N. PRESLEY, <i>et al.</i>,)	By: Hon. Thomas T. Cullen
)	United States District Judge
Defendants.)	

On October 8, 2020, the court denied summary judgment in part in this case as to the *pro se* plaintiff's claims under 42 U.S.C. § 1983 that the defendant prison officials had violated his rights under the First and Eighth Amendments and Virginia law by using excessive force, retaliating against him, and committing the torts of assault and battery. (ECF No. 61.) The court then referred the matter to the United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b)(1), to conduct a bench trial.

The parties tried these remaining claims before the Magistrate Judge on May 11, 2021. On June 9, 2021, the Magistrate Judge entered her Report and Recommendation, making proposed findings of fact, conclusions of law, and recommendations concerning disposition of all claims. According to the Report, after plaintiff presented his case, he dropped his claims against all defendants except Officers Clark and Sluss. The Magistrate Judge further concluded that Clark and Sluss did not use excessive force or commit assault or battery against plaintiff as he had claimed, that no defendant retaliated against plaintiff for filing grievances as he had claimed, and that plaintiff did not suffer any injury during the incident at issue. Therefore, the Report recommends granting judgment for the defendants.

Although the Report notified all parties of their opportunity to file objections to the findings and recommendations in the Report, no party has filed timely objections.

The court has reviewed the Report and Recommendation for clear error and, finding none, it is hereby **ORDERED** that the Report and Recommendation (ECF No. 75) is **ADOPTED IN ITS ENTIRETY**. Based on its findings and recommendations, the court will grant Judgment in favor of all defendants.

A separate Judgment will be entered herewith.

ENTERED this 1st day of September, 2021.

/s/ Thomas T. Cullen

HON. THOMAS T. CULLEN
UNITED STATES DISTRICT JUDGE